

REMARKS

By the present amendment, Claims 5, 9, and 19 are amended. Claims 1 and 10-18 are cancelled without prejudice. All amendments are supported by the present disclosure, and entry thereof is respectfully required.

Accordingly, Claims 2 – 9 and 19 (as amended) are the pending claims. Of these, Claims 5 and 19 are independent.

I. Section 112 Rejections

The Examiner rejected Claim 5 – 7, and 9 under Section 112, second paragraph, as allegedly indefinite.

First, the Examiner contends that Claim 5 (and Claims 6 and 7 which depend from Claim 5) are “incomplete” because the “m” of Formula V is allegedly not defined within the claim. In response, Claim 5 is amended herein to specify that $m=1$.

Second, the Examiner contends that Claim 9 cannot properly depend from Claim 19 due to alleged antecedent basis problems. In response, Claim 9 has been revised to clarify that the step of removing any bromide or iodide ions and the step of precipitating or crystallizing the compound of formula I are both “substeps” of the step of isolating the compound of formula I, already positively recited in Claim 19.

In view of these amendments, it is submitted that all alleged Section 112 issues with Claims 5 – 7, and 9 have been overcome. Accordingly, all rejections of these claims under Section 112 should be withdrawn.

II Prior Art Rejections

Claims 1, 2, 4, 8, and 9 were rejected again as allegedly anticipated by the disclosure of U.S. Patent Application Publication No. 2005/0043531 to Handa et al. (“Handa”). Claims 3 and 5 – 7 were also rejected as allegedly obvious to a person of ordinary skill from the disclosure in the Handa reference.

Handa is cited under Section 102 (e). Accordingly, Applicants submitted with their prior response an English translation of their Austrian priority application no. 586/2003 in order to remove Handa as an alleged reference against their claims.

Application No. 10/552,858
December 29, 2008

However, the Examiner has raised three objections to the translation of the Austrian '586 application.

First, the Examiner contends that the "Y" group in the current claims is stated more broadly than in the disclosure of the Austrian '586 application. Specifically, the Examiner contends that the Y group can be either a halogen or another form of leaving group in the present claims, but that the Y group is only disclosed to be a halogen in the Austrian '586 application. In response, Claim 19 is amended herein to delete "or a leaving group" and to define Y simply as a "halogen."

Second, the Examiner contends that the definition of "m" in the current claims is broader than the definition in the disclosure of the Austrian '586 application. Specifically, the Examiner contends that m may be either 0 or 1 in the present claims, but that the Austrian '586 application only shows m to be equal to one. In response, Claim 19 is also amended herein to limit the definition of m to $m=1$.

Finally, the Examiner objects that a certification was not submitted with the translation attesting to the fact that the translation of the certified copy is accurate. In response, the translations of the Austrian '586, '585, and '584 priority applications, each with the required certification, is submitted herewith.

In view of the foregoing, it is again submitted that the claims are fully supported by the disclosure in the prior-filed '586 application, and that the invention as recited in the currently pending claims therefore antedates the Handa reference. Accordingly, all rejections based upon Handa should be withdrawn.

In light of the foregoing, allowance of Claims 2 – 9 and 19 is respectfully requested.

Application No. 10/552,858
December 29, 2008

In the event this response is not timely filed, Applicants hereby petition for the appropriate extension of time and request that the fee for the extension along with any other fees which may be due with respect to this paper be charged to our Deposit Account No. 12-2355.

Respectfully submitted,
LUEDEKA, NEELY & GRAHAM, P.C.
By: /Mark S. Graham/
Mark S. Graham
Registration No. 32,355

MSG:JDG:lal
Encls. Certified Translations of
584/2003
585/2003
586/2003

Date: December 29, 2008
P.O. Box 1871
Knoxville, Tennessee 37901
(865) 546-4305
E-Filing